

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH C. IMBAT and U.S. POSTAL SERVICE,
POST OFFICE, San Jose, Calif.

*Docket No. 96-2252; Submitted on the Record;
Issued July 10, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty.

On October 19, 1994 appellant, then a 45-year-old distribution clerk, filed a claim for a paranoid disorder, which he attributed to his federal employment. By decision dated July 14, 1995, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence did not establish that he sustained an injury in the performance of duty. In a decision dated June 13, 1996, an Office hearing representative affirmed the Office's July 14, 1995 decision. The hearing representative found that appellant did not allege any compensable factors of employment.

The Board has duly reviewed the case record and finds that appellant failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.

The Federal Employees' Compensation Act¹ does not cover every injury or illness that is somehow related to one's employment. When the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. The disability is not compensable, however, when it results from such factors as an employee's frustration from not being permitted to work in a particular environment or to hold a particular position. If an employee is unhappy doing inside work, desires a different job, broods over the employing establishment's failure to give him the kind of work he desires, and he becomes emotionally disturbed as a result, this does not establish "a personal injury sustained while in the performance of his duty" within the meaning of the Act.²

¹ 5 U.S.C. §§ 8101-8193.

² *Lillian Cutler*, 28 ECAB 125, 131 (1976); 5 U.S.C. § 8102(a).

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician, when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.³ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁴

Appellant generally alleged that his coworkers harassed him by laughing at him and talking about him and his wife. Appellant further alleged that postal inspectors followed him around in their cars and that a supervisor, Ms. Doris Hall, yelled at him. However, for harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that the harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under the Act.⁵ The employing establishment denied that appellant was under investigation by postal inspectors, indicated that he was performing his work well and denied that he experienced harassment from either coworkers or supervisors. The employing establishment further indicated that Ms. Hall denied yelling at appellant and noted that all employees had to speak in a raised voice to be heard over the workplace noise. Appellant has not submitted any evidence in support of his allegations of harassment and thus he has not established a compensable factor of employment.

Appellant primarily attributed his emotional condition to working a boring and monotonous job with little contact with his fellow employees. Appellant stated that, after he returned to work following an employment injury, the employing establishment “made me sit by the scale situate[d] at the middle of the floor. I have no contact or little contact with other employees. I [have] been in this spot for three years now and it [is] pretty boring everyday it makes me feel like I [am] going crazy.” As this statement makes clear, appellant attributes his condition to dissatisfaction with his working environment, which he regards as boring and monotonous. As has been explained, however, the Act does not cover every injury or illness that is somehow related to work. Frustration from not being permitted to work in a particular environment is not compensable.⁶ Appellant has not established any compensable factor of employment and thus the Office properly rejected his claim for compensation.

³ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

⁴ *Id.*

⁵ *Jack Hopkins, Jr.*, 42 ECAB 818 (1991).

⁶ *David M. Furey*, 44 ECAB 302 (1992).

The decision of the Office of Workers' Compensation Programs dated June 13, 1996 is hereby affirmed.

Dated, Washington, D.C.
July 10, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member